

ARTICLE 67:40

OFFICE OF ADULT SERVICES AND AGING

Chapter

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67:40:08:02. Persons eligible for adult protective service. Persons eligible for adult protective service are those persons, 18 years of age and over, who are harmed or threatened with harm because of ~~their own incompetence~~self-neglect, poor health, or the action or inaction of others and who meet one of the following requirements:

(1) They are not receiving adequate food, clothing, shelter, or health care; or

(2) ~~They are deprived of entitlements due them~~ victims of abuse, neglect, or exploitation as defined in SDCL 22-46-1;

~~(3) They are wasting their resources; or~~

~~(4) They are referred by the court.~~

Source: 2 SDR 49, effective January 7, 1976; transferred from § 67:14:29:02, 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 113, effective April 30, 1984.

General Authority: SDCL 28 1 45.

Law Implemented: SDCL 28 1 44.

CHAPTER 67:40:19

HOME AND COMMUNITY-BASED SERVICES

Sections

67:40:19:01 Definitions.

67:40:19:02 Eligibility determination -- Assessment.

67:40:19:03 Individual care plan.

67:40:19:04 In-home services and adult day services.

67:40:19:05 Congregate nutrition services.

67:40:19:05.01 Home nutrition services.

67:40:19:01. Definitions. Terms used in this chapter mean:

(1) “Activities of daily living” tasks performed routinely by an individual to maintain physical functioning and personal care, including transferring, moving about, dressing, grooming, toileting, and eating;

(2) “Adult day service,” the provision of regular care and supervision to adults away from their home for part of a 24-hour day;

(3) “Assistive device,” an item used to increase, maintain, or improve functional capabilities;

(4) “Community transportation services” transportation provided for individuals age 60 and older for medical appointments, shopping and banking, senior center activities, nutrition programs, adult day service programs, and other necessary errands;

(5) “Congregate nutrition service,” meals provided to certain individuals in a group setting;

(6) “Economic resources,” the individual’s own resources together with other types of assistance, financial or otherwise, which are available to an individual and would help maintain the individual in the individual’s own home;

(7) “Health status,” the individual’s medical condition based on a diagnosis of the individual’s existing illnesses or disabilities, the medical care and medication needed in response to the diagnosis, and an assessment of the individual’s ability to perform daily tasks;

(8) “Home,” the individual’s residence which may not include a hospital, penal institution, detention center, school, nursing facility, assisted living facility, intermediate care facility for individuals with intellectual disabilities, or an institution that treats individuals who have mental diseases;

(9) “Home environment,” the individual’s dwelling unit, building, or house and its furnishings and the neighborhood in which the individual resides;

(10) “Homemaker service,” the performance of nonmedical household tasks designed to allow an individual who needs assistance performing household tasks to remain in the individual’s home. Homemaker services may include cleaning identified household areas,

preparing light meals, shopping for essential items, washing dishes, dusting, floor care, or laundry;

(11) "In-home service," a service provided in the home which may include respite care, homemaker service, maintenance nursing, personal care services, meals and nutritional supplements, or providing a personal emergency response system, telehealth services, assistive devices, medical supplies, or medical equipment;

(12) "Instrumental activities of daily living," activities that reflect an individual's ability to live independently, including managing money, use of transportation, shopping, housekeeping, and preparing meals;

(13) "Maintenance nursing," periodic evaluation and counseling by a licensed nurse to promote and maintain the individual's optimal health. Maintenance nursing may include injections, monitoring and setting up medications, physical assessments, monitoring patient status, foot care, drawing blood, changing dressing, and health education;

(14) "Meals and nutritional supplements," nutrition meals or nutritional supplements that enhance an individual's diet;

(15) "Medical equipment," equipment needed to assist an individual in living safely at home;

(16) "Medical supplies," expendable or reusable supplies related to the needs of incontinence, diabetes, or wound care;

(17) "Personal care services," personal hygiene tasks provided according to a recipient's case service plan and provided by an individual who is qualified to provide the services;

(18) "Personal emergency response system," an electronic device that enables individuals to secure help in an emergency;

(19) "Respite care," temporary substitute supports or living arrangements for an individual that provide a period of relief to the primary caregiver on an intermittent, occasional, or emergency basis;

(20) "Social resources," support or assistance available to an individual from the individual's family, friends, neighbors, or community organizations such as churches, civic groups, or senior centers, or other agencies providing services to residents of the community; and

(21) "Telehealth services," a home based health monitoring system used to collect and transmit an individual's clinical data for monitoring and interpretation.

Source:

General Authority: SDCL 28-1-45.

Law Implemented: SDCL 28-1-44.

67:40:19:02. Eligibility determination -- Assessment. An individual may receive necessary services under this chapter if the individual is age 60 or older or age 18 or older with a disability.

The department shall assess an individual's need for services and shall reassess the individual's condition and the continued need for services at least once every 12 months. The department shall consider the individual's ability to complete the tasks necessary to live safely at home, the ability to cooperate and follow the individual care plan, and whether other resources are available to provide the needed services. The assessment must also consider information provided about the individual in the following areas:

(1) Health status;

(2) Social resources;

(3) Home environment;

(4) Activities of daily living;

(5) Instrumental activities of daily living; and

(6) Economic resources.

Source:

General Authority: SDCL 28-1-45.

Law Implemented: SDCL 28-1-44.

67:40:19:03. Individual care plan. The department and the individual shall develop an individual care plan for each individual eligible for services based on the individual's assessment. The plan must contain:

(1) The services or supports authorized;

(2) The number of service hours authorized;

(3) The tasks assigned to the provider; and

(4) The amount of any copay, if applicable.

Source:

General Authority: SDCL 28-1-45.

Law Implemented: SDCL 28-1-44.

67:40:19:04. In-home services and adult day services. In-home services or adult day services may be provided to an individual who demonstrates a need for long-term supports and services through the assessment and meets the following criteria:

(1) The individual is residing at home;

(2) The individual is age 60 or older or is age 18 or older with a disability; and

(3) The individual is not eligible for other programs which provide the same type of service.

Source:

General Authority: SDCL 28-1-45.

Law Implemented: SDCL 28-1-44.

67:40:19:05. Congregate nutrition services. Congregate nutrition services may be provided to the following individuals:

(1) An individual age 60 or older;

(2) The spouse of an individual age 60 or older, regardless of age, if the couple is living together;

(3) An individual with a disability who resides with an individual age 60 or older; and

(4) An individual with a disability who resides in a housing facility where congregate nutrition services are provided.

Source:

General Authority: SDCL 28-1-45.

Law Implemented: SDCL 28-1-44.

67:40:19:05.01. Home nutrition services. Home nutrition services may be provided to the following individuals:

(1) An individual age 60 or older who is unable to leave home due to illness or disability;

(2) Regardless of age, an individual living with a spouse age 60 or over unable to leave home due to illness or disability; or

(3) An individual with a disability who resides with an individual age 60 or over unable to leave home due to illness or disability.

Source:

General Authority: SDCL 28-1-45.

Law Implemented: SDCL 28-1-44.

CHAPTER 67:40:20

CAREGIVER SUPPORT

Sections

67:40:20:01 Definitions.

67:40:20:02 Eligibility.

67:40:20:03 Caregiver care plan.

67:40:20:01. Definitions. Terms used in this chapter mean:

- (1) "Activities of daily living," activities as defined in § 67:40:19:01;
- (2) "Assessment," an evaluation of the caregiver's need for services;
- (3) "Caregiver support," assistance which may include respite care to enable caregivers to be temporarily relieved from their caregiving responsibilities, or supplemental services to complement the care provided by caregivers;
- (4) "Frail," an individual who is unable to perform at least two activities of daily living without substantial assistance or an individual who requires substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or others due to cognitive or mental impairment;
- (5) "Primary caregiver," a non-paid family member or other individual at least 18 years of age who is a care provider;
- (6) "Provider," an individual chosen by the primary caregiver to provide caregiver support. The provider may not live in the care recipient's home; and
- (7) "Respite care," temporary substitute supports or living arrangements for an individual that provide a period of relief to the primary caregiver on an intermittent, occasional, or emergency basis.

Source:

General Authority: SDCL 28-1-45.

Law Implemented: SDCL 28-1-44.

67:40:20:02. Eligibility. The following populations of caregivers are eligible to receive caregiver support:

- (1) Primary caregivers providing care to an individual at least 60 years of age who is frail as defined in § 67:40:20:01;
- (2) Primary caregivers providing care to an individual of any age who has Alzheimer's disease or a related disorder with neurological or organic brain dysfunction;
- (3) Grandparent or non-parent relative caregiver 55 years of age and older providing care to a child under age 18;
- (4) Grandparent or relative caregiver 55 years of age and older providing care to adults age 18-59 with a severe disability; or
- (5) Primary caregivers providing care to an individual at least 18 years of age with a disability.

The individual receiving care shall be assessed using the department's standard assessment. The primary caregiver shall be assessed to determine the level of support necessary to maintain the caregiver in the caregiving role. Assessments are conducted at least once every 12 months.

The department shall consider the individual's ability to complete the tasks necessary to live safely at home, the ability to cooperate with the individual care plan, and whether other resources are available to provide the needed services.

Source:

General Authority: SDCL 28-1-45.

Law Implemented: SDCL 28-1-44.

Cross-Reference: National Family Caregiver Support Act, 42 U.S.C. 3030s.

67:40:20:03. Caregiver care plan. The department and the primary caregiver shall develop a care plan based on the caregiver assessment to address the primary caregiver's needs. The plan must contain the approved services and budget, the allocation amount, and description of the approved tasks or duties of the selected provider.

The plan must be reviewed at least every 12 months and must be signed by the primary caregiver.

Source:

General Authority: SDCL 28-1-45.

Law Implemented: SDCL 28-1-44.

CHAPTER 67:45:02

NURSING HOME CLAIMS AND PAYMENT LIMITS

Section

67:45:02:01 Reserved.

67:45:02:02 Payment limits -- Level of care classification.

67:45:02:03 Repealed.

67:45:02:04 Payment for reserved bed days.

67:45:02:05 Repealed.

67:45:02:06 Repealed.

67:45:02:07 Documentation required for ventilator add-on payment.

67:45:02:08 Assistance when nursing facility unable to meet individual's need -- Individual assigned to self-care -- Payment limits.

67:45:02:09 Assistance when need is intermediate care for the mentally retarded or intermediate care for the mentally disabled -- Payment limits.

67:45:02:10 Payment limited to resident days.

67:45:02:11 Utilization review.

67:45:02:12 ~~Claim requirements~~Repealed.

67:45:02:13 ~~Claim requirements -- New residents~~Repealed.

67:45:02:02. Payment limits Level of care classification. Payment to a nursing facility for services provided to an eligible individual may not be made until the following requirements are met:

- (1) The individual is eligible under article ~~67:16~~67:46;
- (2) The medical review team has determined that the individual requires the level of care for which payment is being requested;
- (3) The redetermination of the level of care classification required in § 67:45:01:08 is current; and
- (4) The facility is able to meet the needs of the individual.

Source: 11 SDR 26, effective August 21, 1984; transferred from § 67:16:04:08.01, 18 SDR 67, effective October 13, 1991.

General Authority: SDCL 28 6 1.

Law Implemented: SDCL 28 6 1

67:45:02:12. Claim requirements. ~~Each month the department will send a two-part claim form to the provider. The first part contains a listing of the individuals who were present at the provider's facility during the last billing period. The provider must complete the second part by correcting any errors listed in the first part and adding the new resident information required under § 67:45:02:13.~~

~~For each individual listed, the provider must indicate on the claim the individual's status using one of the following codes:~~

- ~~(1) 0 reserved bed days;~~
- ~~(2) 1 transferred to a hospital;~~
- ~~(3) 2 transferred to another nursing facility;~~
- ~~(4) 4 reserved bed days patient died;~~
- ~~(5) 5 discharged to home for self-care;~~
- ~~(6) 6 discharged to home under home health agency care;~~
- ~~(7) 7 left against advice;~~
- ~~(8) 8 died;~~
- ~~(9) 9 patient on therapeutic leave; or~~
- ~~(10) Blank still a patient.~~

~~The provider or the provider's authorized agent must sign and date the second part and return the entire form to the department~~Repealed.

Source: 17 SDR 4, effective July 16, 1990; transferred from § 67:16:04:31, 18 SDR 67, effective October 13, 1991.

~~General Authority: SDCL 28-6-1.~~

~~Law Implemented: SDCL 28-6-1.~~

~~Cross-Reference: Claims, ch 67:16:35.~~

67:45:02:13. Claim requirements -- New residents. ~~In addition to the information required~~

~~under § 67:45:02:12, the provider must provide the following information on each new resident:~~

- ~~—(1) The individual's full name;~~
- ~~—(2) The individual's medical assistance number from the individual's recipient identification card;~~
- ~~—(3) Date of service;~~
- ~~—(4) Credit amount;~~
- ~~—(5) Level of care classification; and~~
- ~~—(6) Patient status~~Repealed.

Source: 17 SDR 4, effective July 16, 1990; transferred from § 67:16:04:32, 18 SDR 67, effective October 13, 1991.

~~General Authority: SDCL 28-6-1.~~

~~Law Implemented: SDCL 28-6-1.~~

67:16:35:11. Claim forms and copies. Except for nursing facility claims, claim forms accepted by the department consist of an original and a copy. The original must be submitted to the department and the copy must be retained by the provider.

Source: 17 SDR 4, effective July 16, 1990.

General Authority: SDCL 28-6-1.

Law Implemented: SDCL 28-6-1.

~~Cross-Reference: Claim requirements, § 67:45:02:12.~~

67:49:01:02. Medicaid program -- Use of federal methods and rules for survey, certification, and enforcement of nursing facilities. Unless otherwise specified in this article, in complying with the federal requirements for the survey, certification, and enforcement of skilled nursing facilities and nursing facilities, the Department of Social Services shall follow the regulations set forth in 42 C.F.R. §§ 488.400 to 488.456, inclusive (as amended to January 1, 2013)~~59 Fed. Reg. 56,116 to 56,252, inclusive (November 10, 1994), as amended by 60 Fed. Reg. 50,115 to 50,120, inclusive (September 28, 1995).~~

Source: 22 SDR 23, effective August 8, 1995; 22 SDR 71, effective October 31, 1995.

General Authority: SDCL 28-6-1.

Law Implemented: SDCL 28-6-1.